Where we get our law from, the sources of law include the Constitution, local and state laws, common law, so judges decisions from cases, and administrative law, which comprisesHello, this is Professor Daniel Spitz with your Media Law Review Lecture.
This will be the last lecture that you have before your final exam.
Please remember to double check your syllabus, as well as on the course page to check when our exam dates are.
You will have a seven-day window with which to write the final exam, and it counts for 30% of your final grade in this class.
Now, let's go through and review what we covered together in Media Law this semester.
If we go on to the Canvas course page, you will note that there is a study guide available for you, as well as a breakdown of where you should spend your time studying for the final exam, what the coverage is in terms of multiple choice questions, as well as short answer questions.
I encourage you to put this lecture on pause and download and follow along with the copy of those review notes, as well as the exam coverage as you go through today's lecture.
Now, throughout the semester, we covered five major topics in this course.
We begun our discussion by looking at a civil litigation module, which will combine with the MPAA, the FCC, and new media regulation.
From there, we discussed constitutional law, moved into a discussion of copyright law, that through classes on contract law, followed by tort law, which encompasses defamation and the right to privacy.
To introduce this course, we looked at the process surrounding civil litigation.
So we know that every legal case begins with the filing of a complaint by the plaintiff.
Following the filing of a complaint, the defendant will respond with an answer.
Following the defendant's answer, the parties will exchange documents that each party wishes to prove a trial.
They'll examine the evidence, they'll interview witnesses.
This is known as discovery.
Following the exchange of discovery from both parties, each party will go through a trial setting.
So the plaintiff will begin by making opening statements and opening arguments followed by the defense.
Remember that in every case, the plaintiff has the burden of proof to prove their case by a preponderance of the evidence, P-O-E, or more likely than not.
At trial, once each party has completed their opening statements, then each party will bring forth their evidence, question any witnesses, before the judge or jury will make a decision or ruling or holding or verdict in this case.
If the losing party does not agree with the verdict, they have the right to file an appeal so long as there has been an error at law.
Now throughout the civil litigation process, there can be motions that each party can file.
For example, an MSJ or a motion for summary judgment applies when there is no tribal issue of fact.
So both parties agree on what happened in the case.
Likewise, a party can also bring a motion to dismiss under section 12B6 for failure to state a claim upon which relief can be granted.
In order for a court to hear any civil litigation case, they need to have what's known as jurisdiction or power over either the parties, the plaintiff and the defendant, or the claim itself.
So certain cases belong in state court, such as contract cases and tort cases, or as other cases, such as copyright and constitutional law, belong in federal court.

the FCC and the MPAA.
When we look at authority, we have binding and persuasive authority.
So all decisions that are made by a court become precedent for future courts to follow.
The goal is to have uniformity.
In one case was decided one way, we want the next case to be decided the same way.
Biting authority comes from a higher court or the same court in the same jurisdiction.
Bining authority means the courts must follow that decision.
Likewise persuasive authority is a case or a case decision from a lower court or a court from a different jurisdiction.
In this case, lawyers can still use persuasive authority to help prove their case, but courts can choose to either abide by that law or to make their own.
When it comes to an appeal, the losing party in the first case who files an appeal is referred to as an appellate with the defendant then becoming the appellee or appellee.
An appeals court has the right to affirm or agree with the trial court's verdict to reverse or to vacate this decision.
Likewise, if a court wants to send something back to the original trial court, they will reverse and remand the case.
Now if a plaintiff wins an appeal, they're typically entitled to some combination of legal or monetary and equitable or non-monetary damages.
Moving out of civil litigation into our first amendment module.
The first amendment as part of the Constitution guarantees the right to free speech as well as freedom of expression and freedom of the press.
Every law that concerns the first amendment is evaluated using one of three standards of review, rational basis review, intermediate scrutiny and strict scrutiny.
To analogize those in your head, remember our umbrella example.
Under rational basis review, most laws are protected and constitutional and under strict scrutiny, it is the most restrictive test and most laws are found to be unconstitutional.
In any case, courts will balance the benefits of free speech versus the potential harms that can arise from it.
We know through our discussion that different types of speech are protected under certain categories.
For instance, political speech is protected unless it's likely to incite violence.
Commercial speech, which is historically evaluated using intermediate scrutiny, is constitutional unless it is false or somehow misleading.
Fighting words are words that are likely to inflict injury or breach the peace.
Abscinity follows the three-part Miller test and artistic speech is routinely upheld and protected under rational basis review.
Now laws can be upheld as constitutional or struck down for being too vague or over broad.
We also looked in our constitutional law module at the history of motion pictures and the Supreme Court of the United States.
Historically, films did not receive First Amendment protection.
This changed with the 1952 miracle decision, which was the first case that provided First Amendment free speech protection for motion pictures as artistic speech.
When it came to the regulation of content of motion pictures, the Hays code scrutinized and regulated films from 1934 to 1968 and the Motion Picture Association now governs and has since 1968 through the present.
The Motion Picture Association rates films and studies theatrical viewing trends.
Meanwhile, the Federal Communications Commission, the FCC, is a government-appointed agency that

is responsible for regulating broadcasting.
Now broadcasting applies primarily to television and radio.
Neither the FCC nor the Motion Picture Association has any sort of jurisdiction or power over the internet and cannot regulate its content.
Moving back to the FCC, the agency previously attempted to promote content for a fair and balanced discussion of topics through its fairness doctrine.
However, this was later eliminated in the late 1980s.
The FCC can also fine, threaten to revoke a license or deny a license renewal for networks that engage in repeated indecent or profane content.
Indecency isn't quite up to the level of obscenity and profanity includes swearing on air.
Even fleeting expletives, so unintended swearing on air falls under profanity.
Finally, we looked at new media regulation.
So Section 512 of the Digital Millennium Copyright Act provides a safe harbor provision for certain content providers, so long as they do not edit or do something to exercise control over the content, then they cannot be liable for copyright infringement.
Likewise, once a new media outlet such as a YouTube does receive notice of infringing content, they are responsible for taking it down.
And so as we can see, censorship and content requirements differ significantly when compared with conventional cable.
Moving to our next module, we looked at copyright law and intellectual property.
So we know that there are three bodies of intellectual property.
We have copyright, trademark and patent.
Patent law primarily protects designs, systems and formulas.
Trademark law protects logos, slogans and short phrases.
And finally, copyright law is an exclusive legal right given to the owner of a creative work.
Remember that under all three doctrines of intellectual property, that nothing protects ideas, only the expression of those ideas are in fact protected under federal law.
And under copyright, there are seven different types of works that receive federal copyright protection under Section 102 of the Copyright Act.
We have literary works.
So books or novels or poems.
We have audio visual works, which comprise our motion pictures, our television series, our web series.
We have musical works that are protected under two separate copyrights.
We have the musical composition, which protects the notes and the lyrics of a song.
Or as the sound recording will protect the technical elements, the arrangement and levels of a song.
Likewise, copyright protects dramatic works.
So that is stage plays and musicals, including the music, choreographic works, which include dances, architectural works and compilations.
In order to receive copyright protection, you need to have fixed a copyright in a tangible medium of expression.
So written it down somewhere and originality.
You need some level of creativity, just the minimum amount in order to receive copyright protection.
Now, until you register the copyright with the copyright office, you as a copyright author do not receive legal protection in that you cannot enforce your copyright against any parties that infringe on it.

Once you have a copyright registered with the copyright office, an owner receives a bundle of rights under Section 106 of the copyright act.
So an owner can make copies, enter into derivative works, engage in public performances and distribute.
Within this right is the right to license or authorize others to do the same to engage in those Section 106 rights.
We looked briefly at ownership.
So joint authors have an equal and undivided interest in the work.
And then we looked at the distinction between a work for hire and an independent contractor.
If a copyright is owned as a work for hire, it means that an employee has produced this within the scope of their employment, or it's been commissioned or ordered specifically by a company to a writer or a creator.
If it's not owned by a company and you develop something yourself, then it is considered an independent contractor ownership and the copyright creator can do what they want with it.
If it's unclear whether something is a work for hire or an independent contractor, you look to various factors which include control.
Once a copyright is registered with the copyright office, then an independent contractor will receive copyright protection for their life plus 70 years.
And if something is owned as a work for hire, then a copyright owner will receive the shorter of 95 years from the date of publication or 120 years from the date of its creation.
Finally, once copyright ownership lapses, then it falls into the public domain and anyone has the right to use it.
If a party infringes and steals a portion or all of a copyright in work, then you can file a lawsuit by beginning with what's known as a cease and desist letter.
A copyright owner has three years from the date of the last infringing act with which to sue someone for the unfair exploitation of a work.
In court, a plaintiff will argue copyright infringement.
They need to prove the following elements to do so.
Element number one includes ownership of a valid copyright.
Element number two is that the copyright is registered with the copyright office and the plaintiff needs to prove either element 3A, direct copying, or element 3B, access, and substantial similarity, which comes up much more frequently in the context of copyright infringement lawsuits.
The court will then evaluate the plaintiff's argument using two tests.
They'll use the extrinsic test where they will bring an expert opinion to analyze the two works.
And the jury will apply the intrinsic test based on their personal or subjective beliefs, whether the works sound or feel substantially similar to one another.
Within the context of a copyright infringement lawsuit, a defendant has a number of defenses that they can bring at their disposal.
They can say that the work was independently created.
That the statute of limitations has passed.
That the work is transformative and something new has been created.
Or they can use a fair use test, which is a four factor test, where the court looks at the purpose, the nature, the amount and substantiality, and the commercial revenue that has come in as a result of the infringing work.
If something hasn't been used in much detail, then the defendant can also claim a de minimis use.
That's such an insignificant part of the work has been used that it doesn't amount to copyright

infringement.
Finally, we looked at vicarious and contributory infringement.
So vicarious infringement is where a third party receives a financial benefit from infringing work.
And contributory infringement is where a third party authorizes another party to engage an infringement on its behalf.
If a plaintiff wins a copyright infringement lawsuit, they can win monetary damages of up to $150,000 per infringing act.
So each time a song is played at a concert, or each time a movie is played on screen, those are separate infringing acts.
Likewise, a plaintiff can also win a non-monetary remedy known as an injunction, which is where the court ensures that a party is refrained from engaging in any other unauthorized use.
An injunction works like a giant stop sign.
We finished off our discussion of copyright by looking at music law.
So we looked at lots of different cases and how the court has applied copyright law, sometimes inequitably, towards various cases.
We looked at the Blur-Lines case, the Lizzo case, the George Harrison case, the Black Eyed Pease case, the Roy Orbison and Two-Live Crew case, the Drake case, the Katy Perry case, and the Led Zeppelin case, all of which had various stages of decisions.
Some cases were removed on summary judgment before they even went to trial, and some lasted in court for decades.
Our next module that we went through is contract law.
In contract law, we had five major big picture questions.
Is there a contract?
If there is a contract, what does it mean?
Is there performance, or is there breach?
If there's a breach, is there an excuse?
And if there is no excuse, what is the remedy?
Big picture question number one, is there a contract?
We know that all contracts are made up of mutual assent, which includes the doctrines of offer and acceptance, plus consideration.
An offer has two elements, so intent and definite terms, whereas acceptance has to follow the mirror image rule, where the terms of acceptance have to mirror the terms of the offer.
Likewise, consideration involves an exchange of promises between the parties.
A paper that offers can be revoked by a party, or removed any time before it is accepted.
The one exception to this rule are option contracts, where a party pays to keep an offer open for a set period of time, in which case the offer cannot be revoked.
Other ways which a contract is formed are an express contract, writing, an implied contract through the party's behavior, reliance, where the plaintiff has spent time or money preparing for a deal, and it would be unfair for the course not to enforce one.
And lastly, we have restitution and unjust enrichment that looks at the benefit the defendant received under the deal.
Big picture question two, if there is a contract, what does it mean?
Looks at the terms of the deal itself.
Terms are divided up into material terms, so the fee or compensation, the term or schedule of the agreement, and any bonuses that someone might receive.
Likewise after the material terms you have the boilerplate terms, which are standard terms and conditions, that apply to every contract.
Some of those terms include a merger or integration clause, where every prior negotiation is merged

into the four corners of the contract and integrated, so no outside writing or negotiations are controlled, just what's on the contract itself.
Likewise you have a force-measure clause, which is an act of God, which allows a party to temporarily suspend its performance.
If the terms of a contract are somehow unclear, they're vague, or they are ambiguous, courts can replace those terms using what's known as gap fillers, based on custom and practice in the industry in which the contract is housed.
But the court prefers to look to the party's intent and prior deals first, if any exist.
If a deal is still unclear after all those factors, then the court will interpret or construe the contract against the party who drafted the contract.
Every picture question three asks, is there performance or is there breach?
So full performance is never a breach, whereas part or poor or no performance may be in fact a breach.
And we say maybe because there still may be time to perform.
If a contract contains what's known as a time of the essence clause, then performance is strictly enforceable as of that given date.
Likewise the doctrine of anticipatory repudiation states that if a party is indicated to the other, that they will not perform their obligations before a contract term is due, then they are in breach and a party can sue.
Big picture question four said if there is a breach, is there an excuse?
And so there are a number of excuses or defenses that a defendant in a breach of contract action can use at its disposal.
The defendant can argue a condition has not occurred.
They can argue impossibility that they can't perform.
They can argue in practicability that it is too costly or difficult to perform.
Or they could argue frustration of purpose that there is no value to their performance under an agreement.
Other defenses and other issues that may come up include contracting with a minor, so someone below the age of majority that can determine capacity issues.
There's also the defense of fraud involving material false statements, undue influence and duress where one party has an unfair bargaining power over the other, or a mutual mistake where both parties are mistaken about a basic assumption under the contract.
Big picture question five says if there is no excuse, then what is the remedy?
And remedies in the breach of contract action are categorized into monetary and legal or non-monetary and equitable damages.
Temporary damages are broken down into ex-p- pardon me, expectancy damages, so if a contract was fully performed.
Reliance damages, if the contract never existed.
Restitution damages, so the breaching party has to give back any gains.
And remember that there are no punitive damages in a breach of contract lawsuit that only applies to tort-based lawsuits, which include defamation and the right to privacy.
When we look at non-monetary damages, there are four primary non-monetary damages that a court can issue, an injunction, which is an order from the court that a party refrained from doing something.
Likewise you have specific performance, which is an order from the court that a party must perform their specific obligations that they agreed to under the deal.
The last two non-monetary remedies are Reformation and Recision.
Under Reformation, the court will rewrite a portion of the contract and with Recision, a court will rip up and void the deal altogether.

Regardless of the type of damages the plaintiff is seeking in a breach of contract action, a plaintiff must prove all of their damages with reasonable certainty and the non-breaching party or the plaintiff in the lawsuit must attempt to mitigate their damages by keeping them as low as possible.
From there we look briefly at the preemption doctrine, so if federal law and state law are in conflict with one another, then the federal law is controlling.
This applies primarily when we speak about implied-in-fact contracts.
Implied-in-fact contracts originates from idea disclosure.
So remember that ideas are not protected under copyright or any other intellectual property law, however they can be protected under a contract law theory.
So if a writer pitches a company with a script idea and the studio who heard that pitch then uses the writer's material and they don't give the writer credit or they don't give the writer payment, then the studio can be liable if the writer indicated that he expected to be paid if the studio used that idea and the studio understood that specific condition.
So that is an example of a breach of an implied-in-fact contract where you have no written deal between the parties but through the totality of each party's actions they understand that a contract was formed in this case.
Moving out of our contracts module, we then started to look at tort law which includes the doctrines of defamation and our four right-of-privacy tort.
Defamation, just like a breach of contract action, the burden of proof is placed on the plaintiff who must prove their case by a preponderance of the evidence, which is similar to say 51% or more likely than not.
Defamation is classified into two types.
You have libel which is written or broadcast defamation and you have slander which is spoken defamation.
There are four elements to defamation.
You have number one, a false statement, number two, of and concerning the plaintiff, element number three, publication to a third party and element number four, harm to reputation.
So with element number one, the statement must be actually false.
With element number two, the statement must refer to the plaintiff or give enough physical characteristics that we know who the statement is referring to.
Element number three means that at least one third party must hear the defamatory speech and element number four is harm to someone's reputation which can be proven through a number of different factors.
Now if the false statement is considered to be slender or libel per se, it fits into a category of a loathsome disease, someone committing a crime or someone has engaged in either sexual or professional misconduct, then that fourth element of harm to reputation does not need to be proven.
The harm is presumed and so it's considered slander or libel per se.
Once a plaintiff has gone through these four elements of defamation, they then need to prove a specific level of falsity.
Public figures or public officials must prove actual malice, meaning that the defendant acted with knowledge of falsity or reckless disregard of the truth.
Likewise, private figures have to prove negligence.
So the company must have acted unreasonable in light of a foreseeable risk of harm.
There are four elements to negligence.
We have duty, breach, causation, and damages.
A plaintiff must prove all four in order for a defendant to be liable, not guilty, but liable for defamation.

Moving to defenses, speech can be protected under the First Amendment.
So the court has previously used the Omen test to distinguish facts from opinions.
Other defenses include fair comment, fair report, which includes the doctrines of absolute and qualified privilege.
And of course, the truth.
The truth is a valid defense to defamation.
When we speak about absolute privilege, statements that are made in court or in Congress are protected from defamation issues.
Likewise qualified privilege protects the neutral reporting of the press.
This is protected so long as the statements that the press reveals are considered to be newsworthy.
And so with newsworthiness, the report must be accurate and it must have some public concern.
There are a number of factors that the court will use in determining whether something is newsworthy and they will look primarily at the timing of the story, the significance of the story, whether there is human interest in the story, as well as the prominence of the story.
Moving from our defamation to our right of privacy module.
There are four main right of privacy torts that we studied this semester.
False light invasion of privacy or flip intrusion upon seclusion, public disclosure of a private fact, and misappropriation of name, likeness, and identity.
False light invasion of privacy or flip is the most similar to defamation.
It is a false statement that portrays a person as someone or something that person is not.
With a false light invasion of privacy claim, the media is allowed slightly to distort or embellish the facts.
However, if a plaintiff can prove that the statement was highly offensive to a reasonable person, then they can prove their claim for false light invasion of privacy.
With all right of privacy torts, the harm is broader than in defamation.
So your harm is not limited to just your reputation.
There can be other emotional or business interests or physical injury that can also constitute harm under any of these torts.
Likewise with false light invasion of privacy, all plaintiffs have to prove actual malice regardless of whether they are considered a public figure, a limited purpose public figure, a public official, or a private figure.
And finally, the other distinction with false light invasion of privacy relative to defamation is that false light must be published to a mass group.
Of people rather than just at least one third party.
Our second right of privacy torts concerns intrusion upon seclusion.
This is a physical or technological disturbing of someone's reasonable expectation of privacy.
All of us have a reasonable expectation of privacy in our home or in our phone conversations.
We have a lesser reasonable expectation of privacy in certain public places where we are invitees and we have a very low or no reasonable expectation of privacy on employer provided cell phones at an airport or at borders.
When it comes to intrusion upon seclusion, if someone broadcasts harmful material that someone was not aware of, then they can be liable under this tort.
The third right of privacy torts that we look at this semester is known as a public disclosure of a private fact.
This is the publication of truthful private information that is not of legitimate public concern.
And so unlike defamation and unlike false light invasion of privacy, we are dealing with a

true statement here rather than something that needs to be proven false.
The key element that a plaintiff must prove in the context of a public disclosure or private fact tort is the element of newsworthiness.
A plaintiff must show that something is a morbid and sensational crime and not newsworthy.
A defendant may always use the First Amendment defense.
They can say that the information that was published has public significance and the information was lawfully obtained.
Finally, we looked at the misappropriation of name, likeness, and identity, or NLI for short.
Under the misappropriation doctrine, a company uses someone's NLI without permission for commercial gain.
We looked at this in the context of the Vanna White case where Samsung used an advertisement that looked similar to Vanna White without her permission and without payment.
Vanna White successfully sued for damages.
Misappropriation is separated further into commercialization and the right of publicity, which does survive the death of the plaintiff.
When it comes to defamation, someone's estate or their heirs cannot sue on their behalf.
This is not true under the misappropriation doctrine.
If someone's name, likeness, and identity is being used for commercial or trade purposes, then it is considered a violation of someone's right to privacy.
So with defamation, we deal once again with harm to reputation, with the right to privacy in a broader context, we're dealing with the right to be left alone.
Defenses to all of these right of privacy torques include newsworthiness using the same factors that we had in defamation, information in the public domain, information that the plaintiff consented to, incidental or minor use, and we have the first amendment factors.
Also transformative use, or something new is being created, and artistic relevance.
We finished off our right to privacy discussion by focusing on two other claims, trademark infringement and false endorsement.
In either instance, a plaintiff must prove that there is a likelihood of confusion with what trademark is being promoted, along with someone's use, or that a plaintiff is somehow falsely endorsed or authorized their name on a product or service.
So the likelihood of confusion is the legal standard that the court uses to determine a violation of trademark under the LEMACT or false endorsement.
During our right of privacy module, we had our third and final mock trial.
Mock trial 3a that focused on fair steam versus Netflix, this is where a streaming video on demand provider released when they see us, which is a documentary on the wrongfully convicted central park five.
The broadcast showed prosecutor Linda Ferris steam as a racist, power hungry individual who will stop at nothing to put the accused behind bars.
And so the documentary, which refers to Linda Ferris steam by her name, could be considered defamation because Ferris steam was not in fact the prosecutor on the case, and was the head of the division that prosecuted the central park five.
However, the documentary places her as the central figure and the central antagonist in the broadcast, leaving viewers to believe that she was in fact the person responsible for prosecuting the central park five.
In this case, Netflix can use the first amendment successfully as a valid defense.
Television broadcasts are usually seen as sufficiently transformative or new and not necessarily defamatory.
And so they are protected as artistic speech under the first amendment.

The policy that goes against this is that too many broadcasts would be restricted for their content if the court ruled otherwise.
And so the defendant Netflix wins because Linda Ferris steam who is considered a public figure and has kept herself in the limelight because of this case did not prove the high actual malistander that is required to give a defendant liability.
Finally, networks have the right to fictionalize certain elements of a story to make them more salacious or to make them more dramatic.
Now this does not give a network a blanket right to defame, but it's not considered defamation in this sense as the broadcast contains dozens of characters.
This one just happens to be about an unfortunate antagonist.
And so even though the plaintiff has a right to be left alone after many years after this case has occurred, however, the events of the central park five are still considered newsworthy in the context of discussions about race relations and the legal system.
Mock trial 3B focused on Tom Hanks suing California naturals.
In this case, celebrity Tom Hanks sues a CBD company for implying that he endorses its products as they've used Tom Hanks's testimonial on various advertising materials that led to a massive increase in the defendant's sales.
Tom Hanks here had sued the defendant on a number of different causes of action and is most likely to be successful on the false advertising and misappropriation of name, likeness and identity torts.
In this case, false advertising would confuse consumers that Tom Hanks did in fact endorse CBD products promoted by Cali Naturals when he in fact had not.
Similarly, Cali Naturals should be liable for misappropriation of name, likeness and identity because they're using Tom Hanks's name for commercial gain without his authorization to do so.
When it comes to public disclosure of a private fact, we know that the fact of Tom Hanks using CBD products is true for purposes of this trial.
And so it may not rise to the level of being highly offensive to a reasonable person or being not newsworthy.
The defense can argue in this case that CBD does not present the same social stigmas that it did at one point in time.
And so even though Tom Hanks did not willingly enter into a sponsorship deal with the company and has the right to protect his name, likeness and identity, that does not impute liability for public disclosure of a private fact.
The Walk Trial 3C focuses on Sarah Sileb versus Star Weekly.
In this case, we had a tabloid magazine that published an article about the plaintiff discussing her upcoming comeback and speculating about the reason that she had been out of the spotlight for a number of years and claiming that it was due to a botched plastic surgery incident.
And so in this case, we have an intrusion upon seclusion claim.
And it's unclear whether the information about Sarah's comeback is true.
Certainly a comeback may not be highly offensive to a reasonable person.
However, information about a botched plastic surgery procedure could be considered a morbid and sensational crime.
Most times when we deal with cases of this nature where a tabloid magazine has been sued like a national inquirer or a TMZ, a lot of times these companies settle the case and avoid liability even though they are known for embellishing or distorting certain facts that still claim newsworthiness because they are promoting public figures and even one that has avoided the public for years could still be considered a public figure by society.
And therefore news about celebrities is generally protected as newsworthiness.

So it's likely that in this case, case 3C, Star Weekly is liable for intrusion upon seclusion because it's intruding upon a private place, conversation or matter when they're taking elements of Sarah's private diary.
But it's unlikely that they are liable for false light invasion of privacy since it's unclear whether the information that was actually published is in fact false.
Finally, we concluded our four mock trials with the case of George Governor versus CNBC.
In this case, we have a defendant, a network that broadcasts a news report a month before the California election showing that the current LA mayor, an upcoming gubernatorial candidate, was previously imprisoned for fraud and that the photo shown alongside the CNBC broadcast was that of his twin brother and not in fact the governor.
In this case, George sued for defamation and for negligence.
And since the governor is considered a public official or a public figure, then he has to prove actual malice, which is difficult because the network did take some affirmative steps to verify the accuracy of what was being broadcast.
Now, there's no question the information in this case is presented as newsworthy.
And so the governor or plaintiffs best argument here is for negligence because the standard of proof is much lower with negligence.
You don't have to prove actual malice.
Just that the defendant had a duty as a reasonable television broadcaster.
It was breached when they published false information.
It caused damages.
So in this case, the candidate losing the election or having some sort of emotional or psychological trauma or loss of business and damages, which is proven by quantifying any of those issues.
The causation element of negligence connects the defendant's breach to the plaintiff's harm.
And so in this case, CNBC did not act as a reasonable broadcaster as it should have taken additional steps to verify the truthfulness or falsity of the article.
And so in this case, the defendant is not liable for defamation because it's difficult to prove the actual malice standard, but they are considered to be negligent.
Aside from these modules, we also had a contract negotiation exercise during the semester.
So that was a negotiation between talent and studio representatives for a motion picture actor steal.
There were six categories that you were responsible for negotiating the fee or compensation, the bonuses, credit, assistant, premier tickets, and various perks, which include a per diem, flights, and hotels.
We then debrief that with our following Bayes class.
Finally we had a TBD lecture this semester.
I encourage you to go back and listen to the TBD lecture audio archive to make sure that you keep up with those notes.
Before we call the day with our review lecture, I encourage you, once you're finished today's lecture, to please go on to get either through your phone or through your computer and to leave a review of this course.
As you know, the student opinion survey process is very helpful to analyzing what faculty have done.
It assists us as adjunct faculty in being retained for future years, and your positive or constructive comments are very much appreciated.
So I encourage you, if you have not done so already, to go online through the get app, select student course evaluations, and please take eight to ten minutes after this lecture to complete a survey.

Now, your final exam in this course, all of the instructions for your final exam will be available on Canvas.
So please check those specific items before writing the final exam.
The final exam counts for 30% of your grade in this class.
It is broken down into 45 multiple choice questions and 15 points for short answer or essay questions.
Please note that the short answer and essay questions are found at the end of the exam questions 46 and 47.
If you wish to do those first, you are more than welcome to.
In addition, there is also a suggested time for each of these sections, multiple choice.
You have approximately 110 minutes, so about two to three minutes per question.
And for your essay, I recommend that you spend about 30 to 35 minutes on your essay.
Finally, there is one bonus question.
You receive one point for providing any answer to the bonus, and you get two points for providing the correct answer.
A few tips on multiple choice and your short answer.
With multiple choice, I encourage you to read the last sentence of the question prompt first.
This will indicate which area of law I want you to refer to, and it will give you an idea as to what answer choices you can knock out right away.
So read the last sentence, then the four answer choices.
If you are down to two answers left and you are unclear, which one is correct, choose the answer that involves the law rather than one that argues the facts of the case.
In law, legal answers are always better than factual or policy-based answers.
Again I encourage you to spend as much time as you need on the multiple choice, about two to three minutes per question.
Please make sure to read the question carefully.
There are also some practice multiple choice questions available to you on the course page.
I highly recommend that you time yourself, give yourself about 20 to 30 minutes, to complete the practice multiple choice questions available on the course page.
Likewise, with your short answer or your essay questions, the number one way that I see students not perform as well as they like is that they do not write a sufficient amount of information.
If you get a question that is two or three points, make sure that you're writing enough.
More than one sentence is usually better, so make sure that you maximize your points on the short answer portion by writing a sufficient amount of detail for each question prompt.
As I noted, the exam is open book and open notes, and I encourage you to observe academic honesty and to complete the exam on your own.
I do not recommend spending your time memorizing questions or memorizing certain parts of law.
This is open book and open notes, and many of my questions on both the short answer and the multiple choice portion of your final are considered to be situational in that we looked for which party has made the best argument or you be the judge who wins and why.
As I've noted previously, this exam is a cumulative final, so anything and everything that we have covered throughout this course and in today's review is considered fair game.
That is inclusive of your TBD lecture, inclusive of your negotiation, and inclusive of your mock trials as well as current events.
So anything we discussed at the beginning of class can show up on your final exam.
I encourage you to look back through your notes to see the breakdown of essay and multiple choice questions.
I also encourage you, if you're looking to go back and review our lectures, to use the handouts that were provided to you in class, and rather than go through each audio archive

lecture from start to finish this semester, remember that about five minutes into each class, we have a short sport center like review of the key parts of our last days lecture. It summarizes everything you need to know in just a few minutes.
I encourage you, if you have the time, to go back and to review a few of those minutes within the audio archive to the lecture.
Beyond that, if you are looking to have a comprehensive evaluation of the rules, you can always look to the law librarians from all of the mock trials.
So all the law libraries and all of those mini outlines that were created for you throughout the semester can be used as a good and helpful study guide as to what the actual rules of law are.
So I encourage you, if you have not done so already, to look at all mock trial law libraries and to review any discussion questions, any discussion posts that you have made throughout the semester.
That is it for our review lecture of this course.
I want to thank you for taking the time to listen to today's lecture.
And I want to thank you for being a part of the course with me this semester.
It has been a pleasure to work alongside you and to get to know you better.
If you have any questions following today's review lecture, I highly encourage you to reach out by email or to set up an appointment with me or to attend office hours.
That is it for our review lecture.
Thank you for attending and have a nice day.